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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/571,241	03/09/2006	Rajendra K. Joshi	08201.0065-00000	9619

65779 7590 03/18/2009  
BIOGEN IDEC / FINNEGAN HENDERSON, LLP  
901 NEW YORK AVENUE, NW  
WASHINGTON, DC 20001-4413

EXAMINER
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HOLLOMAN, NANNETTE

ART UNIT	PAPER NUMBER
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1612

MAIL DATE	DELIVERY MODE
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03/18/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/571,241	<b>Applicant(s)</b> JOSHI ET AL.	
	<b>Examiner</b> NANNETTE HOLLOMAN	<b>Art Unit</b> 1612	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 01 December 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 27, 28 and 33-49 is/are pending in the application.
- 4a) Of the above claim(s) 28, 34 and 37-41 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 27, 33, 35, 36 and 42-49 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 March 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>12/01/2008</u> .  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

Applicants' arguments, filed December 01, 2008, have been fully considered. Rejections and/or objections not reiterated from previous office actions are hereby withdrawn. The following rejections and/or objections are either reiterated or newly applied. They constitute the complete set presently being applied to the instant application.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office Action.

#### ***Information Disclosure Statement***

The information disclosure statement filed December 01, 2008 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered. The foreign patent document not considered is not supplied and the non patent literature document was not submitted in English.

#### ***Claim Rejections - 35 USC § 102 (Previous Rejection)***

Claims 27, 33, 35-36 and 42-49 were rejected under 35 U.S.C. 102(b) as being anticipated by Joshi et al. (US Patent No. 6,277,882). This rejection is maintained.

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*Applicant's Arguments*

Applicant argues Joshi does not disclose administration to any subject to treat any of the disclosed conditions and does not anticipate the claims. These arguments have been fully considered but they are not persuasive.

*Examiner's Response*

The Examiner points Applicant's attention to p. 6 of the specification where Applicant discloses examples of cardiac insufficiency to be treated according to the invention include "latent" insufficiencies. The term "latent" would indicate the condition does not have to be present and therefore any person being treated with the claimed composition would treat a "latent" insufficiency and is within the scope of the claims.

***Claim Rejections - 35 USC § 103 (Previous Rejection)***

Claims 27, 33, 35-36 and 42-49 were rejected under 35 U.S.C. 103(a) as being unpatentable over Joshi et al. (US Patent No. 6,277,882) and further in view of McDonald et al. (British Journal of Dermatology, Vol. 99, pp. 469-475, 1978). This rejection is maintained.

*Applicant's Arguments*

Applicant argues absent any suggestion in the art of a mechanistic or etiological connection between psoriasis and myocardial infarction, the skilled artisan would not have looked to a psoriasis treatment as a predictable solution for myocardial infarction. These arguments have been fully considered but they are not persuasive.

*Examiner's Response*

See Examiner's Response in regard to Joshi supra. Applicant's argument seems to go against their own specification at p. 6, line 1; it is disclosed "the cardiac insufficiency concerned may be any type of cardiac insufficiency regardless of its form and/or etiology." Thus, the "etiology" would include those of psoriasis side effects as suggested by McDonald. It is concluded that treating a person with the psoriasis treatment of Joshi would treat those cardiac insufficiencies, i.e. psoriasis side effects, as disclosed by McDonald and therefore encompass the instant claims.

No claim is allowed.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to NANNETTE HOLLOMAN whose telephone number is (571) 270-5231. The examiner can normally be reached on Mon-Fri 800am-500pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Frederick Krass can be reached on 571-272-0580. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/N. H./  
Examiner, Art Unit 1612

/Frederick Krass/  
Supervisory Patent Examiner, Art Unit 1612